

Appl. No. 09/805,679  
Reply to Office Action of 5/5/05

PATENT  
Docket: 000283

### REMARKS

Claims 1-16 are pending in the present application. In the above amendments, claims 1-3 and 5-13 have been amended, and new claims 14-16 have been added. Therefore, after entry of the above amendments, claims 1-16 will be pending in this application. Applicant believes that the present application is now in condition for allowance, which prompt and favorable action is respectfully requested.

#### Rejection of Claims 1-10 Under 35 U.S.C. §102(e)

Claims 1-10 stand rejected under 35 U.S.C. §102(e) as being anticipated by August *et al* (U.S. Patent No. 6,389,055).

Claim 1 of the present invention, as amended, recites:

“A portable communication device comprising:

a microphone structured for receiving sound waves, the sound waves being representative of (i) an audio signal and (ii) hidden data embedded in the audio signal, the microphone converting the received sound waves into an electrical output signal;

a processor electrically coupled to the microphone and configured to receive the electrical output signal in order to extract the hidden data and provide information represented by the hidden data;

a user interface electrically coupled to the processor and configured to (i) receive a first user input, (ii) activate the processor to selectively initiate extraction of the hidden data in accordance with the first user input, (iii) receive a second user input indicative of user preferred portions of the information represented by the hidden data, and (iv) activate the processor to provide the user preferred portions of the information in response to the second user input, wherein the processor provides the information represented by the hidden data in response to the first user input and provides the user preferred portions of the information in response to the second user input; and

a user presentation mechanism configured to present the information provided by the processor.”

Applicant submits that claim 1 is not anticipated by August for at least the following reasons.

First, August does not describe “a user interface configured to ... receive a second user input indicative of user preferred portions of the information represented by the hidden data,” as claim 1 recites. The rejection indicates that this feature is disclosed by August in

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column 7, lines 34-43. (See the rejection for claim 2.) Column 7, lines 34-43 describes the operation of monitor device 10, which presumably corresponds to audio source 30 in the present application, and not the operation of capture device 110, which presumably corresponds to the portable communication device of claim 1. This section of August describes encoding programming format into signals being broadcast so that monitor device 10, "for instance a car stereo", can scan channels for a programming format selected by the user. The user selection in August is thus used for scanning channels and not for selecting which portions of information to display. The user selection in August is thus for a different device and for a different purpose than the second user input recited in claim 1.

Second, August does not describe "the processor provides ... the user preferred portions of the information in response to the second user input," as claim 1 recites. The rejection indicates that this feature is disclosed by August in column 6, lines 43-54. (See the rejection for claim 2.) Column 6, lines 43-54 states that "the encoded non-perceptible data can include display information, so that at least portions of the captured data can be discerned by a user of the device, and the user can thus be kept informed as to the operation of the device." This section of August describes displaying a portion of the captured data but does not describe providing user preferred portions of the information. Column 6, lines 43-54 further states that "in a transaction initiated by the device using captured information, a two-way dialog may be initiated between the user and an agent at a remote terminal or a POTS system, and information may be transmitted to and stored in the device for later retrieval." This section of August describes exchanging information for a transaction initiated by the device and not information represented by the hidden data.

For at least the above reasons, Applicant submits that claim 1 is not anticipated by August.

Claims 2 through 5 are dependent on claim 1 and are not anticipated by August for at least the reasons noted for claim 1. These dependent claims may recite additional features not described by August. For example, claim 5 recites "an embedding device for ... embedding the output from the processor with identification information for the portable communication device." The rejection indicates that this feature is disclosed by August in column 6, lines 29-35. This section of August states "the encoded non-perceptible data can include associated telephone dialing, network routing, or other identification information, so that other portions of the captured data can be transmitted to an appropriate final destination

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or device.” The identification information in this section of August is included in the encoded non-perceptible data and may correspond to linking information. August does not describe identification information for the portable communication device, which is embedded at the device, as claim 5 recites.

Claim 6 recites “a receiver structured to receive a radio frequency signal containing hidden data and to convert the radio frequency signal into an electrical output signal.” Claim 9 recites “a receiver configured to receive a broadcast signal ... representative of (i) an audio signal and (ii) hidden data embedded in the audio signal.” These features of claims 6 and 9 allow portable communication device 40 to receive, e.g., a broadcast signal directly from broadcast facility 20 and to bypass audio source 30. (See FIGS. 1 and 5 of the present application.) Applicant submits that these features are not disclosed by August. FIGS. 1, 3 and 5 of August show capture device 110 receiving an acoustic signal from monitor 10 and a visual signal from television 101 but not a radio frequency signal or a broadcast signal directly from broadcast transmitter 102.

Claim 7 recites “a base station configured to ... extract hidden data from the processed signal, the extracted hidden data including identifier information for the portable communication device” This feature is not described by August for the reason noted above for claim 1.

Claims 8 and 10 recite the features noted above for claim 1. More specifically, each of these claims recite (1) receiving a second user input indicative of user preferred portions of the information represented by the hidden data and (2) providing or presenting the user preferred portions of the information in accordance with the second user input. These claims are not anticipated by August for the reasons noted above for claim 1.

Accordingly, the §102(e) rejection of claims 1-10 should be withdrawn.

#### Rejection of Claims 11-13 Under 35 U.S.C. §103(a)

Claims 11-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over August. The rejection suggests that August describes “determining a revenue share amount for each of the at least one entity based upon the broadcast data signals and the user selection”. The rejection states that August is silence on “allocating the determined revenue share amount to each of the at least one entity” but suggests that this features is obvious.

Claim 11 has been amended to recite “wherein the revenue share amount for each entity is related to a service rendered by the entity to provide the hidden information.” In

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contrast, the billing information described by August is related to the purchase of item(s) offered for sale. Hence, the revenue recited in claim 11 is different from the revenue generated from a purchase transaction described by August.

Claims 12 and 13 are dependent on claim 11 and are patentable over August for at least the reasons noted for base claim 11.

Accordingly, the §103(a) rejection of claims 11-13 should be withdrawn.

#### New Claims

New claims 14-16 recite additional features of the invention. Claim 14 is dependent on claim 11 and is patentable for at least the reason noted above for base claim 11. Claims 15 and 16 are dependent on claim 1 and are patentable for at least the reasons noted above for base claim 1.

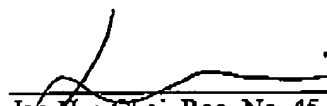
#### CONCLUSION

In light of the amendments contained herein, Applicant submits that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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